

1           A     My engineer, Owl, Garrett Lysiak and Owl  
2 Engineering. He's the one that --

3           Q     And do you know --

4           A     -- figured that out.

5           Q     Do you know whether that was, whether that was  
6 affected by his perceived need to avoid a 70 dBu overlap with  
7 KCSI?

8                     MR. MILLER: Objection.

9                     MR. NEELY: There's no basis of what Mr. Lysiak's  
10 perceptions were.

11                    MR. WARD: Oh, I know that. That's why I, that's  
12 why I'm asking -- well, we know he did a -- we think we know  
13 he did a 70 dBu study.

14                    MR. NEELY: We don't know anything about that. We  
15 know that there was a bill with that -- words on it. That's  
16 all we know.

17                    JUDGE FRYSIK: Well, the way the question was  
18 phrased was, he asked her whether she had any information --  
19 right? Is that what you said?

20                    MR. WARD: That's where I was going, yes. I -- the  
21 predicate was what, what she --

22                    MR. NEELY: Could you ask the question again,  
23 please?

24                    MR. WARD: The question was whether, whether she  
25 knew -- whether the height of the tower was dictated by Mr.

1 Lysiak's -- a perceived need on his part to avoid 70 dBu  
2 overlap with KKSI or was it based on a, a limitation flowing  
3 from the, from the Class C3 nature of this allocation.

4 WITNESS: To your --

5 JUDGE FRYSIK: I think the objection -- was as to  
6 form and I think I will sustain that. Would you -- you're  
7 assuming an awful lot in there.

8 MR. WARD: Yes, I --

9 JUDGE FRYSIK: I think you have to lay a predicate  
10 for that.

11 BY MR. WARD:

12 Q I think -- do you know why -- let me ask more  
13 directly. Do you know why Mr. Lysiak -- did he ever explain  
14 to you why he's proposing a tower of that particular height?

15 A Not really.

16 Q Did he ever indicate to you that you could have more  
17 coverage if you raised the tower height?

18 A I don't recall that.

19 Q Did -- turning to Rivertown Exhibit 13. That's the  
20 long Harris proposal. Turn to page 32 of that, the next to  
21 the last page. Those were the -- I think you testified that  
22 you didn't know -- that was not your -- those were not your  
23 numbers, not your handwriting?

24 A That is correct.

25 Q And while you thought it might be Mr. McVey's, you

1 weren't sure.

2 A That's correct.

3 Q Did, did you give this, this document from Harris  
4 Allied to anybody else?

5 A No, I didn't.

6 Q Are these, are these edited numbers on page 32, are  
7 those the ones that went into your, your final budget? Page  
8 -- or Rivertown Exhibit 12?

9 A I don't remember if they did, if they were.

10 Q Is -- was it your sense that the equipment list that  
11 you prepared -- I'm sorry. You, you prepared the equipment  
12 list, I think you testified, after you received Exhibit 13?  
13 Did you --

14 MR. NEELY: Are you referring to the equipment list  
15 that's been --

16 BY MR. WARD:

17 Q Yeah. Your Exhibit 11 -- our Exhibit 11.

18 A Would you repeat the question, please?

19 Q Did you prepare Exhibit 11, your equipment list,  
20 after you received Exhibit 13, the Harris proposal?

21 A Yes, I did.

22 Q I think you testified that you had. Is it, is it  
23 also true that you prepared that equipment list, Exhibit 11,  
24 after the -- after Mr. McVey had done his editing on, on  
25 Exhibit 13? Did he --

1           A     I never said that, but I'm trying to remember.

2           Q     No, I know you didn't say it. That's what I'm  
3 trying to find out.

4           A     Yes, I think I did.

5           Q     On, on that page 32 again of Exhibit 13, I notice  
6 that, that Harris had proposed for, for Group J, Air Studio  
7 Equipment, equipment having a total value of \$45,000, which --

8           A     I can see that.

9           Q     I'm sorry?

10          A     I'm looking at it.

11          Q     Yeah. With that marked down to \$11,000 by whoever  
12 did the editing of this. And that the next, the next  
13 category, Group K, Production Studio Equipment, they had  
14 budgeted something like \$44,600 and that got knocked down to  
15 \$14,000.

16          A     Yes, that's right.

17          Q     They, they projected \$4,500 for Remote Pick-Up  
18 Equipment and that got struck altogether. Did, did Mr. McVey  
19 explain to you why he was proposing such a, such a reduction  
20 in the amount of studio and production equipment from what  
21 Harris was proposing?

22               MR. MILLER: Objection. I'll object to that. Ms.  
23 -- Mrs. Sample's testimony was not that these were Mr. McVey's  
24 figures. Is your question -- she doesn't, doesn't know who  
25 made these figures.

1 MR. WARD: Well, but she, she also testified that  
2 she didn't give this to anybody else.

3 MR. NEELY: Very well. Proceed.

4 MR. WARD: It --

5 WITNESS: The reason why --

6 MR. WARD: In response to counsel's objection, is  
7 there any question in your mind but what Mr. McVey is the guy  
8 who did the, the editing on this particular page?

9 WITNESS: It seems like these are his numbers, okay?  
10 It seems like these are his numbers, but yet I cannot say  
11 under oath that yes, I saw him do those -- I saw him jot those  
12 down. So, I -- what I can say is that yes, he did do it in  
13 the way that I gave it to nobody else.

14 JUDGE FRYSIK: Well, the question now is to you is  
15 did he explain why he marked down some of these figures,  
16 especially the production equipment?

17 WITNESS: What, what I can recall is that he told me  
18 that there was unnecessary equipment in the proposal from  
19 Harris and that you could do better with -- you could do  
20 without certain equipment. That was their business and. and

1           Q     You don't recall him saying, well, you know, it  
2 depends on what you -- how you, how you plan to operate, what  
3 you're going to need. Did he ever ask you how you planned to  
4 operate?

5           A     I don't know if he ever asked me how I was going to  
6 operate. I may have offered what my idea was on how I wanted  
7 to, to run it.

8           Q     Your -- I notice that he struck Remote Pick-Up  
9 Equipment altogether. You told him you didn't plan to do any  
10 remote pickups?

11          A     No.

12          Q     Do you recall any discussion with him about remote  
13 pickups?

14          A     No, I don't. I do not recall.

15          Q     But your -- is it safe for us to conclude that you,  
16 you trusted his judgment and relied on it in making these  
17 decisions on what to include and what to -- what you didn't  
18 need?

19          A     Yes.

20               MR. NEELY: I don't, I don't think Ms. Sample  
21 testified that these were decisions made by Mr. McVey. I  
22 think they were testified -- that she testified that --

23          Q     They're recommendations --

24               MR. NEELY: He was recommending something.

25          Q     Okay.

1 MR. NEELY: Not deciding something.

2 BY MR. WARD:

3 Q Were there any, any of his recommendations that, in  
4 the area of equipment exclusion that you disagreed with? Or  
5 overruled in any way?

6 A I can't say that I remember. No, I don't remember  
7 of anything that I disagreed with.

8 Q Speaking of remote pickups, I seem to recall your  
9 deposition testimony that you, you and Mr. Linder discussed at  
10 some point the desirability of carrying local sports teams.

1 do stuff only live or how do you -- what's, what's the level  
2 of your --

3 A I know --

4 Q What's the level of your involvement with the  
5 equipment side of broadcasting today?

6 A Operating a board, on-air board, and using different  
7 machinery, cart deck, the reel-to-reel, and there's another  
8 piece of equipment, I don't know what the names are, but I've  
9 used before and recording -- interviewing people over the  
10 phone. Playing it back and then dubbing it off on cart.

11 Q And is that the kind of, kind of equipment that you  
12 expect to have at this station? At the Eldon station?

13 A Yes, it is.

14 Q When, when you were hired by -- first hired by Olde  
15 Towne Communications, KKSI, do you recall whether you -- you  
16 mentioned these two fellows that came down from another Linder  
17 station and interviewed you. Do you recall whether you  
18 mentioned to them that you were -- that your mother was  
19 Hispanic or --

20 A I don't recall telling them that exactly then at  
21 that precise time.

22 (Pause.)

23 MR. WARD: Your Honor, I think I -- I think I have  
24 no further questions of this witness.

25 JUDGE FRYSIK: Thank you.



1 MR. WARD: Could -- well --

2 JUDGE FRYSIK: Will there be redirect?

3 MR. NEELY: Yes, Your Honor. Just a few questions.

4 May I take about a five-minute break just to get back and  
5 review my notes and --

6 JUDGE FRYSIK: All right.

7 MR. NEELY: Thank you.

8 JUDGE FRYSIK: Five-minute recess.

9 (Whereupon, off the record from 3:57 p.m. to 4:03  
10 p.m.)

11 MR. WARD: Your Honor, I, I don't know what the --  
12 is. I have not formally offered several of these exhibits  
13 that I do intend to offer through her. Maybe I should do  
14 those at this time and make sure that if there are any  
15 objections. we can get those voiced before she leaves town.

1 received into evidence.)

2 JUDGE FRYSIK: How about 9?

2 MR. WARD: Same. Your Honor. I'd offer that at this

1 JUDGE FRYSIAK: Are you offering it or not?

2 MR. WARD: My point, my point is -- and I may have  
3 some questions about this with Mr. McVey, the issue here is  
4 not what her, what are her numbers, but where do they come  
5 from? Who and, and, you know, the extent to which she relied  
6 upon Mr. McVey and the resources of KCSI.

7 MR. NEELY: She's testified to that.

8 MR. WARD: Well, in general terms.

9 JUDGE FRYSIAK: Well, I guess your point is that it  
10 serves as a reference point to some of the questions that were  
11 asked of her. Is that it?

12 MR. WARD: Exactly.

13 JUDGE FRYSIAK: How it relates. It keeps it in  
14 focus. I'll receive it over your objection.

15 (Whereupon, the document referred to  
16 as Rivertown Exhibit No. 10 was  
17 received into evidence.)

18 JUDGE FRYSIAK: How about 11?

19 MR. WARD: 11 -- 11 I would offer. I don't know  
20 whether you have an objection.

21 MR. NEELY: I would have -- just for the record, I  
22 state the same objection to Exhibit 11.

23 JUDGE FRYSIAK: All right. I'll receive it.

24 (Whereupon, the document referred to  
25 as Rivertown Exhibit No. 11 was

1 received into evidence.)

2 JUDGE FRYSIK: How about 12, Final Budget? There  
3 were a lot of questions about that.

4 MR. NEELY: And I have the same objection to Exhibit  
5 12 that I did to Exhibits 10 and 11.

6 JUDGE FRYSIK: I'll receive it over your objection.  
7 (Whereupon, the document referred to  
8 as Rivertown Exhibit No. 12 was  
9 received into evidence.)

10 JUDGE FRYSIK: How about 13, letter from Harris  
11 Allied, page 23 missing?

12 MR. NEELY: I have an objection to Exhibit 13. It  
13 was -- Ms. Sample testified that it's a document that she  
14 looked at or something that she used, but it's not her budget.  
15 She has not adopted her budget. The budgets that she adopted  
16 have already been identified and received into evidence. I  
17 see no evidentiary value to polluting the record with

1 receive it over your objection.

2 (Whereupon, the document referred to  
3 as Rivertown Exhibit No. 13 was  
4 received into evidence.)

5 JUDGE FRYSIK: And 14 and 15 are already in. 16,  
6 employment report -- that's official notice.

7 COURT REPORTER: Your Honor, this says number 5.

8 JUDGE FRYSIK: Pardon?

9 COURT REPORTER: Number 5? We covered it earlier.  
10 I know you marked it but I don't have any record on whether  
11 you accepted it or not.

12 MR. WARD: I thought that we, we did rule on that.  
13 That was the testimony of William Collins.

14 JUDGE FRYSIK: I received 5, because it was not  
15 objected to.

16 COURT REPORTER: Thanks.

17 MR. WARD: -- Your Honor.

18 JUDGE FRYSIK: All right. Mr. Neely, do you have  
19 any redirect?

20 MR. NEELY: Yes, Your Honor. Just a few questions.

21 REDIRECT EXAMINATION

22 BY MR. NEELY:

23 Q Ms. Sample, you and Mr. Vey -- Mr. Ward were talking  
24 about Rivertown Exhibits 6 and 7, which were letters from Owl  
25 Engineering to Mark McVey and they had attached some area to

1 | locate maps.

2 |       A     That is correct.

3 |       Q     You testified earlier that you had, you had seen  
4 | those maps, but you did not testify when you had seen those

1 detailed review of this Rivertown Exhibit 10 with Bruce  
2 Linder?

3 A No, not detailed. I don't -- would you repeat the  
4 question, please?

5 Q Um-hum. Did you have a detailed review of this  
6 budget with Mr. Linder?

7 A Oh, review.

8 Q Yes.

9 A Pretty much detailed, yes. We went over it --

10 Q And this is your draft? Your draft budget?

11 A Yes.

12 Q You never sent a written copy of any budgets to Mr.  
13 Linder?

14 A No, I don't think I did.

15 Q And you testified that this draft budget was made  
16 much earlier than your final budget?

17 MR. WARD: Objection. I, I think the -- I think  
18 he's rather leading the witness on that.

19 JUDGE FRYSIK: You are leading, but --

20 MR. WARD: He's not only leading her, but he's  
21 putting, putting words in which weren't facts -- part of her  
22 testimony. She did testify as to a priority, but not to  
23 extreme degree of priority.

24 JUDGE FRYSIK: Would you rephrase your question?

25 BY MR. NEELY:

1 Q You testified -- did you testify that this Rivertown  
2 Exhibit 10 was prepared before your final budget?

3 A That's what I can recall.

4 Q All right. And when you then prepared your final  
5 budget, which has been identified and received into evidence  
6 as Rivertown Exhibit 12, did you review the cost of your final  
7 -- a detailed review of your final costs with Mr. Linder?

8 A Yes, I did.

9 Q Where -- was that in person or over the phone?

10 A I can't remember.

11 Q Do you recall -- your detailed review, were you  
12 going over the items with him and was he making suggestions or  
13 changes or recommendations, or was he merely -- were you  
14 reciting information and he was receiving it?

15 A Pretty much reciting information to him.

16 Q If you direct your attention to your written case  
17 exhibit. That would be Sample, Sample Exhibit 2, page 4 --  
18 the bottom of page 4. If you'd read that paragraph to  
19 yourself, please.

20 A The last paragraph?

21 Q Yes. In fact, it's the last six lines of the page  
22 and carrying over onto page 5.

23 A Okay. Yes, I've read it.

24 Q Okay. Mr. Ward asked you a question about your  
25 city-grade signal in relationship to Ottumwa. After reviewing



1 this, this paragraph, does that refresh your recollection as  
2 to your personal considerations in selecting the tower site  
3 that you did and it's relationship to cities like Ottumwa,  
4 Fairfield, Bloomfield, which were mentioned?

5 A Well, it's like it says here. I wanted to serve --  
6 at the same time that I serve the larger communities, I wanted  
7 to serve other larger -- I mean smaller communities, as it  
8 says here, south, you know, in Van Buren County. I didn't  
9 want to over-saturate -- in my mind, I didn't want to over-  
10 saturate Ottumwa, Fairfield, and Bloomfield and I wanted to  
11 offer a new signal to other areas instead of concentrating on  
12 -- more on Ottumwa, Fairfield, or Bloomfield.

13 Q Thank you.

14 MR. NEELY: I have no further cross-examination of  
15 this witness.

16 JUDGE FRYSIK: Redirect.

17 MR. NEELY: Redirect.

18 JUDGE FRYSIK: Any recross?

19 RECROSS-EXAMINATION

20 BY MR. WARD:

21 Q You're, you're saying here that you, that you --  
22 when did you have this discussion with Mr., Mr. McVey about  
23 your service objectives?

24 MR. MILLER: I don't know that she testified she had  
25 such a discussion.

1 BY MR. WARD:

2 Q Well, I'm -- the next to the last sentence of that  
3 paragraph, by looking at the maps, Mr. McVey was able to point  
4 out a general land area which would allow me to serve the  
5 areas I had in mind. Now --

6 A What page is that again, please?

7 Q That's the top of page 5.

8 A Okay.

9 Q Now, I'm not Mr. McVey and I don't -- he seems like  
10 a nice, young man, but I don't think he's a mind-reader. So  
11 you must have told him what you had in mind for him to be able  
12 to point out the general land area which would allow you to  
13 serve the areas you hand in mind. Did you tell him what you  
14 had -- the area -- what your service objectives were? Or did  
15 he, did he receive it by extrasensory perception as your  
16 counsel's objection seems to imply.

17 MR. MILLER: Objection to that characterization.

18 MR. WARD: That was with a smile.

19 MR. MILLER: Smiles don't get recorded.

20 MR. WARD: Objections with a smile.

21 MR. MILLER: Smiles don't get recorded, Mr. Ward.

22 JUDGE FRYSIK: I understand -- I believe the  
23 witness understands. Did you have a discussion with Mr. McVey  
24 as to what your intentions as to service -- the area of  
25 service?

1 WITNESS: I would have had to.

2 BY MR. WARD:

3 Q You would have had to -- why do, why do say you  
4 would have had to? Otherwise you wouldn't have known where to  
5 go -- or he wouldn't have known where to go?

6 A I'm going to read this paragraph again.

7 Q Please do.

8 (Pause.)

9 A The question again was -- is whether I had a --  
10 whether I told McVey what area I was want -- I was wanting to  
11 cover?

12 Q Did you tell him that you weren't -- you wanted to  
13 avoid concentrating your circle into the Ottumwa area, but you  
14 -- that you wanted to focus on the southeastern area -- Van  
15 Buren County area that you describe here as, as --

16 JUDGE FRYSIK: Well, I don't know whether the  
17 original question included the term avoid as to --

18 BY MR. WARD:

19 Q Well -- allow me to serve the areas -- allow me to  
20 serve the areas -- did you give -- tell him the areas you had  
21 in mind you wanted to serve? With particular reference to  
22 this Van Buren County area?

23 A It's getting kind of confusing to me.

24 Q Well, let's -- forget, forget this paragraph. Let's  
25 go back -- let's talk about what happened. You, you needed to

1 find a transmitter site.

2 A That's correct.

3 Q And you had a -- you say you had received a map from  
4 Owl, which we haven't seen. You approached Mark McVey, he  
5 tells you that that map isn't precise enough and he tells you

1 Q Was that his personal truck or was it the stations  
2 truck?

3 A His personal truck.

4 Q Okay. Then you -- this -- you started this trip in,  
5 in Ottumwa.

6 A That's correct.

7 Q Which way did you go? You headed southeast? Down  
8 the river?

9 A We went towards Eldon. Towards that, towards that  
10 -- more or less that area.

11 Q Towards which area?

12 A Southeast.

13 Q Why did you -- why were you going in that direction?  
14 Who decided you were going to go in that direction?

15 A I think based upon the, the maps and what we had  
16 looked at, we both decided to go.

17 Q You'd already -- before, before you left you'd  
18 already blocked out in the -- in these maps, or one of them,  
19 an area that you wanted to focus on?

20 A Yes, I did. Yes, I think that's what happened.

21 Q Okay. And before you did that, did you and he have  
22 a discussion about what your service objectives were and where  
23 you wanted to, where you wanted to, as you put it, the areas  
24 you had in mind? As you state in your exhibit?

25 A At that time, from the best of my recollection, I

1 think I -- I should have told him that, to find the right  
2 site. To serve what I --

3 JUDGE FRYSIAK: What you're saying is you must have  
4 told him that, but you don't recall saying that. Is that what  
5 you're saying?

6 WITNESS: Yes, that's what I'm saying.

7 JUDGE FRYSIAK: All right.

8 BY MR. WARD:

9 Q And do you recall him saying anything to you about,  
10 about avoidance of 70 dBu contour overlap with KKSI?

11 A Not to me.

12 Q You don't recall that subject every coming up?

13 A No, I don't.

14 Q You've heard this -- you've heard it come up since  
15 then?

16 A Yes, I have.

17 Q Now, do you understand what it means?

18 A So it won't interfere with the other signal?

19 Q That's, that's your understanding if there's a  
20 possible interference between -- station and the Eldon station  
21 if their 70 dBu contours overlap? That's your understanding?

22 A Yes, that's my understanding.

23 Q Well, where did you get that understanding?

24 A I can't remember. There's so many broadcasters.

25 MR. WARD: I have no further questions.

1 JUDGE FRYSIAK: All right. You're excused. I want  
2 to remind you that we're under a rule of sequestration, so  
3 that you should not speak to any of the other witnesses that  
4 will appear tomorrow, which are Bruce Linder and --

5 MR. WARD: And Mark McVey.

6 MR. MILLER: About the -- about her testimony.

7 JUDGE FRYSIAK: About the testimony.

8 MR. MILLER: About her testimony. She, she can talk  
9 about --

10 WITNESS: I can talk to them, but not --

11 MR. MILLER: -- the weather or something.

12 JUDGE FRYSIAK: Well, your lawyers will explain what  
13 it means.

14 MR. MILLER: What time are we starting in the  
15 morning, Your Honor?

16 JUDGE FRYSIAK: Pardon?

17 MR. MILLER: What time tomorrow?

18 JUDGE FRYSIAK: How long are you guys going to take  
19 tomorrow? Just the morning?

20 MR. WARD: I think I'm going to be going most of the  
21 day. I don't --

22 JUDGE FRYSIAK: 9:30 tomorrow.

23 MR. WARD: 9:30?

24 MR. MILLER: Thank you.

25 MR. WARD: Much as I'd like to sleep in.

1 (Whereupon, at 4:30 p.m., the proceeding was adjourned.)  
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**CERTIFICATE OF REPORTER, TRANSCRIBER, AND PROOFREADER**

APPLICATIONS FOR FM STATION IN ELDON, IOWA

**Name**

MM DOCKET NO. 92-316

**Docket No.**

WASHINGTON, D.C.

**Place**

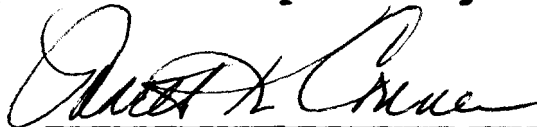
JUNE 22, 1993

**Date**

We, the undersigned, do hereby certify that the foregoing pages, numbers 40 through 212, inclusive, are the true, accurate and complete transcript prepared from the reporting by JEFFREY YEATMAN in attendance at the above identified proceeding, in accordance with applicable provisions of the current Federal Communications Commission's professional verbatim reporting and transcription Statement of Work and have verified the accuracy of the transcript by (1) comparing the typewritten transcript against the reporting or recording accomplished at the proceeding and (2) comparing the final proofed typewritten transcript against the reporting or recording accomplished at the proceeding.

July 1, 1993

**Date**



Martha K. Conner, Transcriber  
Free State Reporting, Inc.

July 2, 1993

**Date**



Diane S. Windell, Proofreader  
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